



UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No.	05-27860
TASANEE MACEDON,)	DC No.	EJS -01
)		
Debtor.)		

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtor filed this voluntary chapter 7 petition on June 28, 2005. No schedules have been filed and the meeting of creditors has not been held.

1 On July 6, 2005, Riverpoint Park ("movant") filed a
2 motion, notice, and declaration requesting relief from the
3 automatic stay in order to proceed with eviction. The hearing
4 on the motion was set for August 9, 2005. No opposition to the
5 motion was filed. Upon review of the record, the court
6 determined that the written record was adequate and that no
7 oral argument is necessary.

8 Movant owns residential property located at 2081 West La
9 Loma Drive, #103, Rancho Cordova, CA. Debtor rents said
10 property from movant. On June 22, 2005, movant obtained a Writ
11 of Possession against the debtor in an unlawful detainer action
12 in the Superior Court of California, County of Sacramento. The
13 eviction process was halted by the filing of the debtor's
14 bankruptcy petition.

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16 Conclusions of Law

17 The automatic stay of acts against the debtor in personam
18 and of acts against property other than property of the estate
19 continues until the earliest of the time when the bankruptcy
20 case is closed, dismissed, or an individual in a chapter 7 case
21 is granted a discharge. 11 U.S.C. § 362(c). However, the
22 automatic stay may be terminated earlier if debtor fails to
23 adequately protect the secured party's interest, § 362(d)(1),
24 and, with respect to a stay of an act against property, the
25 debtor does not have equity in the property, § 362(d)(2)(A),
26 and the property is not necessary to an effective
27 reorganization. § 362(d)(2).

28 Because the debtor rents the property and does not own

1 the property, the property is not property of the estate, and
2 hence the debtor has no equity in the property.

3 Accordingly, the motion is granted.

4 An appropriate order will issue.

5 Dated: August 11, 2005

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8 UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Tasanee Macedon
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Riverpoint Park
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1420 River Park Drive, Suite 140
Sacramento, CA 95814

Office of the United States Trustee
United States Courthouse
501 I Street, Suite 7-500
Sacramento, CA 95814

Dated: 8/16/05


Deputy Clerk